

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

CIVIL ACTION NO. 3:17-cv-05806-RJB

DECLARATION OF LA ROND
BAKER IN SUPPORT OF
WASHINGTON'S REPLY IN
SUPPORT OF MOTION FOR
PARTIAL SUMMARY JUDGMENT
ON THE GEO GROUP, INC.'S
AFFIRMATIVE DEFENSES

Under penalty of perjury under the laws of the United States of America I, La Rond Baker, certify that the below is true and correct:

1. I am over the age of 18 and competent to testify in this matter.
2. I am an Assistant Attorney General in the Civil Rights Division of the Washington State Attorney General's Office and I represent the State of Washington in this matter.
3. As of April 18, 2019, Washington has produced all responsive and non-privileged documents GEO requested from the Washington State Departments of Social and Health Services, Corrections, and Labor and Industries, and the Washington State Governor's Office.

1 4. Attached hereto as Baker Declaration Exhibit A is a true and correct copy of Washington's
2 Supplemental Answers and Responses to The GEO Group, Inc.'s First Set of Requests for
3 Admissions.

4
5 Executed this 3rd day of May 2019 in Seattle, Washington.

6
7 s/ La Rond Baker

8 LA ROND BAKER, WSBA No. 43610

9 Assistant Attorney General
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated this 3rd day of May, 2019.

s/ Caitilin Hall
CAITILIN HALL
Legal Assistant

BAKER DECLARATION

EXHIBIT A

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,

NO. 3:17-cv-05806-RJB

Plaintiff,

v.

THE GEO GROUP, INC.,

WASHINGTON'S SUPPLEMENTAL
ANSWERS AND RESPONSES TO
THE GEO GROUP, INC.'S FIRST SET
OF REQUESTS FOR ADMISSIONS

Defendant.

OBJECTIONS

Pursuant to Federal Rules of Civil Procedure 36, Plaintiff State of Washington ("Washington") hereby supplements to Defendant The GEO Group, Inc.'s ("GEO" or "Defendant") First Set of Requests for Admissions Propounded to the State of Washington (collectively "Requests").

GENERAL OBJECTIONS

1. Washington objects to the Requests to the extent that they seek information protected from disclosure by the attorney-client privilege, attorney work product doctrine, common interest doctrine, deliberative process privilege, law enforcement privilege, and/or any other applicable legal privilege. If any privileged information is inadvertently provided, Washington does not waive or intend to waive the privilege pertaining to such information.

2. Washington preserves its objections to the definition of the term "State" on the

1 basis that it includes Washington's "attorneys," as Defendant is not entitled to discover
 2 information that is attorney-client privileged or protected by the attorney work product doctrine.
 3 Washington further preserves its objections to the definition of the term "State" as overbroad to
 4 the extent it seeks to impose obligations upon the Office of the Attorney General to obtain and
 5 produce documents or information from "all employees, agents, attorneys, investigators, or other
 6 representatives and all other persons acting or purporting to act on its behalf," in other state
 7 agencies that are outside of the Office of the Attorney General's possession, custody, or control.
 8 Without waiving these objections, and pursuant to the Court's October 2, 2018 order,
 9 Washington supplements its responses with information from the Washington State Department
 10 of Labor and Industries, Washington State Department of Corrections, Washington State
 11 Department of Social and Health Services, the Washington State Governor's Office, and the
 12 Washington State Attorney General's Office.

13 3. Washington objects to the requests to the extent that they seek the production of
 14 documents not in its possession, custody or control.

15 4. Washington objects to the requests to the extent that they seek the production of
 16 documents and information that are already in the possession or control of Defendant, or purport
 17 to impose upon Washington an obligation to search publicly available materials, when such
 18 material is equally accessible to Defendant, or would require Washington to serve subpoenas on
 19 unrelated entities to obtain responsive information.

20 5. These responses are made solely for the purpose of this action. Each response is
 21 subject to all objections as to competence, relevance, privilege, materiality, propriety,
 22 admissibility, and any and all other objections that would require the exclusion of any
 23 information if any requests were made of a witness present and testifying at trial. All such
 24 objections are reserved and may be interposed at any time prior to or during the trial in this
 25 matter.

26 6. That Washington has responded to these requests, or any part thereof, should not

1 be interpreted to mean that such a response constitutes admissible evidence. That Washington
 2 has responded to any request, or any part thereof, is not intended and shall not be construed as a
 3 waiver of all, or any part, of any objection to any such request.

4 7. Washington reserves the right to amend any of the responses set forth below in
 5 light of information developed or learned on a subsequent date.

6 8. Each of the foregoing General Objections is incorporated by reference into the
 7 responses to each individual request below.

8 **REQUESTS FOR ADMISSIONS**

9 **REQUEST FOR ADMISSION NO. 1:** Admit that the State has not previously sought to
 10 enforce the Minimum Wage Act or bring unjust enrichment claims against GEO or ICE for
 11 detainees at the Northwest Detention Center.

12 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
 13 parties or state agencies outside of the Washington Attorney General's Office's possession,
 14 custody, or control. Further, Washington objects to this request as it is unclear what time period
 15 GEO refers to. Without waiving these objections, Washington admits that the Washington
 16 Attorney General's Office has not sought to enforce the Minimum Wage Act or bring unjust
 17 enrichment claims against GEO or ICE outside this litigation. Washington is unable to admit or
 18 deny whether any other state agency has previously sought to enforce the Minimum Wage Act
 19 or bring unjust enrichment claims against GEO or ICE.

20 **SUPPLEMENTAL RESPONSE:** Admit, Washington has not previously enforced the
 21 Minimum Wage Act or brought unjust enrichment claims against GEO or ICE for detainees at
 22 the Northwest Detention Center.

REQUEST FOR ADMISSION NO. 2: Admit that the State has not previously sought to enforce the Minimum Wage Act or bring unjust enrichment claims against GEO for any other detention facility operated under contract with any federal, state, or municipal entity.

RESPONSE: Washington objects to this request to the extent it seeks information from non-parties or state agencies outside of the Washington Attorney General's Office's possession, custody, or control. Further, Washington objects to this request as it is unclear what time period GEO refers to. Without waiving these objections, Washington admits that the Washington Attorney General's Office has not sought to enforce the Minimum Wage Act or bring unjust enrichment claims against GEO outside this litigation. Washington is unable to admit or deny whether any state agency has sought to enforce the Minimum Wage Act or bring unjust enrichment claims against GEO for any other detention facility.

SUPPLEMENTAL RESPONSE: Admit, Washington has not previously enforced the Washington Minimum Wage Act or brought unjust enrichment claims against GEO for any other detention facility operated under contract with any federal, state, or municipal entity.

REQUEST FOR ADMISSION NO. 3: Admit that the State has not previously sought to enforce the Minimum Wage Act or bring unjust enrichment claims against any other private company for any other detention facility operated under contract with any federal, state, or municipal entity.

RESPONSE: Washington objects to this request to the extent it seeks information from non-parties or state agencies outside of the Washington Attorney General's Office's possession, custody, or control. Further, Washington objects to this request as it is unclear what time period GEO refers to. Without waiving these objections, Washington admits that the Washington Attorney General's Office has not sought to enforce the Minimum Wage Act or bring unjust enrichment claims against any other private company for other detention facilities. Washington

1 is unable to admit or deny whether any state agency has sought to enforce the Minimum Wage
2 Act against any other private company for other detention facilities.

3 **SUPPLEMENTAL RESPONSE:** Admit, Washington has not previously enforced the
4 Washington Minimum Wage Act or brought unjust enrichment claims against any other private
5 company for any other detention facility operated under contract with any federal, state, or
6 municipal entity in Washington.

7
8
9 **REQUEST FOR ADMISSION NO. 4:** Admit that oral or written employment contracts or
10 agreements between GEO and current or former detainees do not exist.

11 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
12 parties outside of the Washington Attorney General's Office's possession, custody, or control.
13 Washington further objects to this request to the extent it seeks information that is within GEO's
14 possession. Without waiving these objections, Washington answers that at this point Washington
15 is unable to admit or deny this request. However, Washington admits that some written
16 agreements and documents exist that include information about the terms and conditions of the
17 employment relationship between GEO and detainee workers.

18
19
20 **REQUEST FOR ADMISSION NO. 5:** Admit that, prior to the filing of the complaint in this
21 case, a Washington state agency or entity never notified GEO that Washington's Minimum
22 Wage Act applied to GEO's VWP.

23 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
24 parties or state agencies outside of the Washington Attorney General's Office's possession,
25 custody, or control. Without waiving these objections, Washington answers that the Washington
26 Attorney General's Office admits that it notified GEO that Washington's Minimum Wage Act

1 applied to GEO upon filing of the Complaint in this litigation. Washington is unable to admit or
 2 deny whether any other state agency notified GEO that the Minimum Wage Act applied to
 3 GEO's Voluntary Work Program.

4 **SUPPLEMENTAL RESPONSE:** Washington objects to this request to the extent that it is not
 5 time-limited and it does not define "notified," as such it is impossible for Washington to confirm
 6 whether a state agency or entity has *ever* notified GEO that Washington's Minimum Wage Act
 7 applied to GEO's VWP. Without waiving these objections, Washington admits that, neither the
 8 Washington State Attorney General's Office nor the Department of Labor and Industries notified
 9 GEO that Washington's Minimum Wage Act applied to GEO's Voluntary Work Program at
 10 NWDC prior to the filing of the complaint in this case.

11
 12
 13 **REQUEST FOR ADMISSION NO. 6:** Admit that, prior to the filing of the complaint in this
 14 case, a Washington state agency or entity never notified GEO that the agency or entity would
 15 seek to enforce Washington's Minimum Wage Act applied to GEO's VWP.

16 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
 17 parties or state agencies outside of the Washington Attorney General's Office's possession,
 18 custody, or control. Without waiving these objections, Washington admits that the Washington
 19 Attorney General's Office notified GEO that it would seek to enforce Washington's Minimum
 20 Wage Act upon filing of the Complaint in this litigation. Washington is unable to admit or deny
 21 whether any other state agency notified GEO that it would seek to apply the Minimum Wage
 22 Act to GEO's Voluntary Work Program.

23 **SUPPLEMENTAL RESPONSE:** Washington objects to this request to the extent that it is not
 24 time-limited, it does not define "notified," and it is impossible for Washington to confirm
 25 whether a state agency or entity has *ever* notified GEO that it would seek to enforce the
 26 Washington Minimum Wage Act to GEO's VWP. Without waiving these objections,

1 Washington admits that neither the Washington State Attorney General's Office nor the
2 Department of Labor and Industries notified GEO that they would seek to enforce the Minimum
3 Wage Act to GEO's Voluntary Work Program prior to the filing of the complaint in this case.

4
5
6 **REQUEST FOR ADMISSION NO. 7:** Admit that a present or former NWDC detainee has
7 never filed a Minimum Wage Act complaint with the Department of Labor and Industries.

8 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
9 state agencies outside of the Washington Attorney General's Office's possession, custody, or
10 control. Without waiving these objections, Washington is unable to admit or deny this request.
11 The Washington Attorney General's Office does not operate the Department of Labor and
12 Industries and, therefore, does not track the complaints that agency receives or does not receive
13 from detainees.

14 **SUPPLEMENTAL RESPONSE:** Washington objects to this request to the extent that it is
15 vague and ambiguous as to whether it seeks information about complaints filed by present or
16 former detainees against employers other than GEO. Without waiving its objections, Washington
17 admits in part and denies in part. Washington admits that no past or present detainee has filed a
18 wage complaint against GEO for work performed in the Voluntary Work Program at the NWDC
19 with the Department of Labor & Industries. Washington denies the remainder for lack of
20 knowledge as Department of Labor & Industries does not track information such as whether a
21 worker was a past or present detainee at NWDC when it receives Minimum Wage Act
22 complaints.

1 **REQUEST FOR ADMISSION NO. 8:** Admit that a present or former NWDC detainee has
 2 never sought relief from an immigration judge or ICE to work for GEO.

3 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 4 federal agencies outside of the Washington Attorney General's Office's possession, custody, or
 5 control. Washington further objects to this request as it is unclear and/or ambiguous as to what
 6 "relief" refers to. Without waiving these objections, Washington answers it is unable to admit or
 7 deny whether any detainees have ever sought relief from an immigration judge or ICE to work
 8 for GEO.

9
 10
 11 **REQUEST FOR ADMISSION NO. 9:** Admit that the State of Washington offers inmate
 12 and/or detainee work programs in its corrections and detention facilities that do not pay
 13 minimum wage for each hour worked by inmates or detainees.

14 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 15 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 16 control. Washington further objects to this request as it is irrelevant and not reasonably calculated
 17 to lead to admissible evidence. Without waiving these objections, Washington is unable to admit
 18 or deny this request. The Washington Attorney General's Office is aware that Washington's
 19 minimum wage law includes a statutory exemption for government-operated institutions, but it
 20 does not operate the state corrections and detention facilities nor does it manage inmate and/or
 21 detainee work programs.

22 **SUPPLEMENTAL RESPONSE:** Admit, Wash. Rev. Code § 72.60.100 bars inmates from
 23 being considered employees or to be employed by the state or the Department of Corrections.
 24 Further, all of Washington's inmate and/or detainee work programs are exempt from
 25 Washington's minimum wage laws. *See* Wash. Rev. Code § 49.46.010(3)(k). As such,
 26

1 Washington operates inmate and detainee work programs that pay participants less than the
 2 Washington minimum wage.

3
 4
 5 **REQUEST FOR ADMISSION NO. 10:** Admit that the State of Washington has contracts with
 6 private contractors such as GEO that provide for inmate and/or detainee work programs in these
 7 private corrections and detention facilities that do not pay minimum wage for each hour worked
 8 by inmates or detainees.

9 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 10 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 11 control. Washington further objects to this request as it is irrelevant and not reasonably calculated
 12 to lead to admissible evidence. Without waiving these objections, Washington is unable to admit
 13 or deny this request. The Washington Attorney General's Office does not operate the state
 14 corrections and detention facilities nor does it manage its contracts with private contractors such
 15 as GEO.

16 **SUPPLEMENTAL RESPONSE:** Admit, Wash. Rev. Code § 72.60.100 bars inmates from
 17 being considered employees or to be employed by the state or the Department of Corrections.
 18 Further, all of Washington's inmate and/or detainee work programs are exempt from
 19 Washington's minimum wage laws. *See* Wash. Rev. Code § 49.46.010(3)(k). As such,
 20 Washington contracts with private contractors that provide for inmate and/or detainee work
 21 programs in private corrections and detention facilities that do not pay the Washington minimum
 22 wage for each hour worked by inmates or detainees.

1 **REQUEST FOR ADMISSION NO. 11:** Admit that the State of Washington's corrections and
 2 detention facilities use inmate/detainee labor in its kitchen facilities.

3 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 4 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 5 control. Washington further objects to this request as it is irrelevant and not reasonably calculated
 6 to lead to admissible evidence. Without waiving these objections, Washington is unable to admit
 7 or deny this request. The Washington Attorney General's Office does not operate the state
 8 corrections and detention facilities nor does it determine whether its corrections and detention
 9 facilities use inmate labor in their kitchen facilities.

10 **SUPPLEMENTAL RESPONSE:** Deny in part, Washington does not use inmate/detainee
 11 labor in the kitchen facilities at each and every correctional or detention facility owned and
 12 operated by Washington. Admit in part, Washington owns and operates some correctional and
 13 detention facilities that do use inmate/detainee labor in kitchen facilities.

14
 15
 16 **REQUEST FOR ADMISSION NO. 12:** Admit that the State of Washington's corrections and
 17 detention facilities use inmate/detainee labor in its laundry facilities.

18 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 19 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 20 control. Washington further objects to this request as it is irrelevant and not reasonably calculated
 21 to lead to admissible evidence. Without waiving these objections, Washington is unable to admit
 22 or deny this request. The Washington Attorney General's Office does not operate the state
 23 corrections and detention facilities nor does it determine whether its corrections and detention
 24 facilities use inmate labor in their laundry facilities.

25 **SUPPLEMENTAL RESPONSE:** Deny in part, Washington does not use inmate/detainee
 26 labor in the laundry facilities at each and every correctional or detention facility owned and

1 operated by Washington. Admit in part, Washington owns and operates some correctional and
 2 detention facilities that use inmate/detainee labor in laundry facilities.

3
 4
 5 **REQUEST FOR ADMISSION NO. 13:** Admit that the State of Washington's corrections and
 6 detention facilities use inmate/detainee labor to perform janitorial services.

7 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 8 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 9 control. Washington further objects to this request as it is irrelevant and not reasonably calculated
 10 to lead to admissible evidence. Without waiving these objections, Washington is unable to admit
 11 or deny this request. The Washington Attorney General's Office does not operate the state
 12 corrections and detention facilities nor does it determine whether its corrections and detention
 13 facilities use inmate labor to perform janitorial services.

14 **SUPPLEMENTAL RESPONSE:** Deny in part, Washington does not use inmate/detainee
 15 labor to perform janitorial services at each and every correctional or detention facility owned
 16 and operated by Washington. Admit in part, Washington owns and operates some correctional
 17 and detention facilities that use inmate/detainee labor to perform janitorial services.

18
 19
 20 **REQUEST FOR ADMISSION NO. 14:** Admit that the State of Washington's corrections and
 21 detention facilities use inmate/detainee labor in its barber facilities.

22 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 23 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 24 control. Washington further objects to this request as it is irrelevant and not reasonably calculated
 25 to lead to admissible evidence. Without waiving these objections, Washington is unable to admit
 26 or deny this request. The Washington Attorney General's Office does not operate the state

1 corrections and detention facilities nor does it determine whether its corrections and detention
2 facilities use inmate labor in its barber facilities.

3 **SUPPLEMENTAL RESPONSE:** Deny in part, Washington does not use inmate/detainee
4 labor in the barber shop at every correctional or detention facility owned and operated by
5 Washington. Admit in part, Washington owns and operates some correctional and detention
6 facilities that use inmate/detainee labor in the barber shop.

7
8
9 **REQUEST FOR ADMISSION NO. 15:** Admit that the State of Washington's corrections and
10 detention facilities use inmate/detainee labor to clean inmate/detainee living spaces.

11 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
12 state agencies outside of the Washington Attorney General's Office's possession, custody, or
13 control. Washington further objects to this request as it is irrelevant and not reasonably calculated
14 to lead to admissible evidence. Without waiving these objections, Washington is unable to admit
15 or deny this request. The Washington Attorney General's Office does not operate the state
16 corrections and detention facilities nor does it determine whether its corrections and detention
17 facilities use inmate labor to clean inmate/detainee living spaces.

18 **SUPPLEMENTAL RESPONSE:** Object to the extent that "clean inmate/detainee living
19 spaces" is vague. Without waiving its objections, Washington denies this request in part.
20 Washington does not use inmate/detainee labor to clean inmate/detainee living spaces at every
21 correctional or detention facility owned and operated by Washington. Admit in part, Washington
22 owns and operates some correctional and detention facilities that use inmate/detainee labor to
23 clean inmate/detainee living spaces.

1 **REQUEST FOR ADMISSION NO. 16:** Admit that the State of Washington executed a
 2 contract with GEO Group dated May 13, 2015, that “[a]ll eligible offenders shall be afforded the
 3 opportunity to participate in programs, occupational training, and work on the same basis as
 4 other offenders” and that “[o]ffenders shall not be paid for participation in any program for which
 5 an offender in the state of Washington would not be paid.”

6 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 7 state agencies outside of the Washington Attorney General’s Office’s possession, custody, or
 8 control. Washington further objects to this request as it is irrelevant and not reasonably calculated
 9 to lead to admissible evidence. Without waiving these objections, Washington is unable to admit
 10 or deny this request. The Washington Attorney General’s Office does not operate the state
 11 corrections and detention facilities nor does it manage contracts executed by state correction
 12 agencies.

13 **SUPPLEMENTAL RESPONSE:** Admit, Washington executed a contract with GEO dated
 14 May 13, 2015; however, although the contract was executed, the Department of Corrections
 15 never utilized the services of GEO and the contract is now expired.

16
 17
 18 **REQUEST FOR ADMISSION NO. 17:** Admit that Washington’s Minimum Wage Act has no
 19 express exception for ICE detainees who are participating in voluntary work programs while
 20 detained in Sea Tac.

21 **RESPONSE:** Washington objects to this request as it is irrelevant and is not reasonably
 22 calculated to lead to admissible evidence. Without waiving these objections, Washington is
 23 unable to admit or deny this request. With this lawsuit, Washington seeks to enforce the
 24 Minimum Wage Act as it applies to GEO in its operation of the Northwest Detention Center.
 25 Washington has not evaluated whether the Minimum Wage Act applies to other entities for work
 26 performed by other detainees held in Sea Tac or other locations. Washington admits that the

1 Minimum Wage Act has no express exception for ICE detainees who are participating in
 2 voluntary work programs while detained in Sea Tac.

3
 4
 5 **REQUEST FOR ADMISSION NO. 18:** Admit that Washington's Minimum Wage Act claim
 6 applies to all ICE detainees held in Washington State whether ICE holds its detainees in Tacoma
 7 or Sea Tac.

8 **RESPONSE:** Washington objects to this request as it does not seek information that is
 9 reasonably calculated to lead to admissible evidence. Without waiving these objections,
 10 Washington is unable to admit or deny this request. With this lawsuit, Washington seeks to
 11 enforce the Minimum Wage Act as it applies to GEO in its operation of the Northwest Detention
 12 Center. Washington has not evaluated whether the Minimum Wage Act applies to other entities
 13 for work performed by other detainees held in Sea Tac or other locations.

14
 15
 16 **REQUEST FOR ADMISSION NO. 19:** Admit that ICE controls whether GEO operates a
 17 VWP at NWDC.

18 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
 19 parties that are outside the Washington Attorney General's Office's possession, custody or
 20 control and seeks a legal conclusion. Without waiving these objections, Washington admits that
 21 GEO entered into a contract with ICE to provide immigration detention services at the Northwest
 22 Detention Center. Washington also admits that the GEO-ICE contract contemplates GEO
 23 operating a Voluntary Work Program pursuant to its contractual obligations and the Performance
 24 Based National Detention Standards.

1 **REQUEST FOR ADMISSION NO. 20:** Admit that ICE sets classification standards for ICE
 2 detainees held at NWDC.

3 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
 4 parties that are outside the Washington Attorney General's Office's possession, custody or
 5 control. Without waiving these objections, Washington denies this request. GEO may adopt
 6 ICE's classification standards or adopt its own standards. Specifically, ICE's Performance-
 7 Based National Detention Standards states that each facility "shall develop and implement a
 8 system for classifying detainees" and that facilities have the option of "rely[ing] on the ICE
 9 Custody Classification Worksheet" or a "similar locally established system." Further, it is GEO,
 10 and not ICE, that employs "Classification Officers," who classify detainees upon a detainee's
 11 arrival at the Northwest Detention Center and consider subsequent requests for reclassification.
 12
 13

14 **REQUEST FOR ADMISSION NO. 21:** Admit that ICE has a full-time on-site contract
 15 monitor at NWDC who oversees implementation of the ICE contract to include the VWP.

16 **RESPONSE:** Washington objects to this request as it seeks information from non-parties that
 17 are outside the Washington Attorney General's Office's possession, custody or control. Without
 18 waiving these objections, Washington is unable to admit or deny whether ICE has a full-time,
 19 on-site contract monitor at the Northwest Detention Center or whether the scope of such person's
 20 duty includes oversight of the ICE contract, including the Voluntary Work Program.
 21
 22

23 **REQUEST FOR ADMISSION NO. 22:** Admit that ICE controls the activities ICE detainees
 24 volunteer to participate in at NWDC.

25 **RESPONSE:** Washington objects to this request as it seeks information from non-parties that
 26 are outside the Washington Attorney General's Office's possession, custody or control. Without

1 waiving these objections, Washington denies this request. GEO, and not ICE, controls the
 2 activities of detainees at the Northwest Detention Center because it is GEO that supervises,
 3 trains, and assigns detainees to jobs within the Voluntary Work Program on any given day. In
 4 addition, ICE's Performance-Based National Detention Standards confirm "the facility
 5 administrator," and not ICE, "shall develop site-specific rules for selecting work detail
 6 volunteers," and "shall establish procedures for informing detainee volunteers about on-the-job
 7 responsibilities and reporting procedures."

8
 9
 10 **REQUEST FOR ADMISSION NO. 23:** Admit that ICE controls the hours of operation of the
 11 VWP at the NWDC.

12 **RESPONSE:** Washington objects to this request as it seeks information from non-parties that
 13 are outside the Washington Attorney General's Office's possession, custody or control. Without
 14 waiving these objections, Washington denies this request. GEO, and not ICE, supervises, trains,
 15 and assigns detainees to jobs within the Voluntary Work Program. GEO likewise sets the shifts
 16 and hours for job assignments in the Voluntary Work Program, including any ad-hoc job
 17 assignments that occur at all hours of the day and night.

18
 19
 20 **REQUEST FOR ADMISSION NO. 24:** Admit that ICE controls the participation of any ICE
 21 detainee in the VWP at NWDC.

22 **RESPONSE:** Washington objects to this request as it seeks information from non-parties that
 23 are outside the Washington Attorney General's Office's possession, custody or control. Without
 24 waiving these objections, Washington denies this request. GEO, and not ICE, controls the
 25 participation of any detainee in the Voluntary Work Program on any given day. GEO supervises,
 26 trains, and assigns detainees to jobs within the Voluntary Work Program. ICE's Performance-

1 Based National Detention Standards further state that “the facility administrator,” i.e., GEO, and
 2 not ICE, “shall develop site-specific rules for selecting work detail volunteers,” and “shall
 3 establish procedures for informing detainee volunteers about on-the-job responsibilities and
 4 reporting procedures.”

5
 6
 7 **REQUEST FOR ADMISSION NO. 25:** Admit that ICE controls the total number of
 8 participants in the VWP at NWDC.

9 **RESPONSE:** Washington objects to this request as it seeks information from non-parties that
 10 are outside the Washington Attorney General’s Office’s possession, custody or control. Without
 11 waiving these objections, Washington denies this request. GEO controls the number of detainees
 12 in the Voluntary Work Program on any given day. It is GEO that supervises, trains, and assigns
 13 detainees to jobs within the Voluntary Work Program.

14
 15
 16 **REQUEST FOR ADMISSION NO. 26:** Admit that ICE controls all staffing ratios at the
 17 NWDC.

18 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
 19 parties outside of the Washington Attorney General’s Office’s possession, custody, or control.
 20 Without waiving these objections, Washington answers that it is unable to admit or deny this
 21 request as it is unclear and/or ambiguous as to what “staffing ratios” refers to.

1 **REQUEST FOR ADMISSION NO. 27:** Admit that ICE pays ICE detainees \$1.00 per day to
 2 participate in its VWP at NWDC.

3 **RESPONSE:** Washington denies this request. ICE reimburses GEO in the amount of \$1.00 for
 4 each detainee who works in the Voluntary Work Program. However, it is GEO who pays
 5 detainees for work performed under the Voluntary Work Program. It is also GEO who chooses
 6 the detainee-workers' rate of pay.

7
 8
 9 **REQUEST FOR ADMISSION NO. 28:** Admit that ICE pays ICE detainees \$1.00 per day to
 10 participate in its VWP at Sea Tac.

11 **RESPONSE:** Washington objects to this request as it seeks information from non-parties
 12 outside the Washington Attorney General's Office's possession, custody or control. Washington
 13 further objects as it is irrelevant and is not reasonably calculated to lead to admissible evidence.
 14 Without waiving these objections, Washington is unable to admit or deny this request.
 15 Washington is not aware the rate of pay detainees receive at a detention facility that is not the
 16 subject of this lawsuit.

17
 18
 19 **REQUEST FOR ADMISSION NO. 29:** Admit that GEO may not pay ICE detainees more
 20 than \$1.00 per day to participate in the ICE VWP at NWDC without ICE approval.

21 **RESPONSE:** Washington denies this request. ICE reimburses GEO in the amount of \$1.00 for
 22 each detainee who works in the Voluntary Work Program. However, ICE nowhere requires ICE
 23 approval for GEO to pay detainees more than \$1.00 per day for work performed.

1 **REQUEST FOR ADMISSION NO. 30:** Admit that the Attorney General brings this lawsuit
2 against GEO using the Attorney General's law enforcement authority.

3 **RESPONSE:** Admit, Washington brings suit against GEO using the Attorney General's law
4 enforcement authority. *See* Wash. Rev. Code § 43.10.030 and *City of Seattle v. McKenna*, 529
5 P.3d 1087 (Wash. 2011).

6
7
8 **REQUEST FOR ADMISSION NO. 31:** Admit that participation in the VWP is voluntary.

9 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
10 parties outside the Washington Attorney General's Office's possession, custody or control.
11 Without waiving these objections, Washington can neither admit nor deny this request, as it
12 depends on the circumstances of individual detainees. Some detainee-workers have no source of
13 income outside of the VWP and are unable to seek other employment. GEO requires detainees
14 to pay for their own telephone and other communication services to remain in contact with their
15 friends and families. GEO also requires detainees to pay for personal hygiene and food items in
16 the Commissary. As such, detainee-workers with no other source of income must participate in
17 the VWP to earn any money to purchase necessary personal items.

18
19
20 **REQUEST FOR ADMISSION NO. 32:** Admit that it is the sole responsibility of ICE to
21 determine whether a detainee will be allowed to perform on voluntary work details and at what
22 classification level.

23 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
24 parties outside the Washington Attorney General's Office's possession, custody or control.
25 Without waiving these objections, Washington denies this request. GEO, and not ICE,
26

1 determines whether any given detainee will be allowed to perform on voluntary work details and
 2 at what classification level.

3
 4
 5 **REQUEST FOR ADMISSION NO. 33:** Admit that ICE has never advised Washington that
 6 ICE detainees participating in the VWP at NWDC may be GEO's employees.

7 **RESPONSE:** Washington objects to this request to the extent it seeks information from non-
 8 parties or state agencies outside of the Washington Attorney General's Office's possession,
 9 custody, or control. Without waiving these objections, Washington admits that ICE has never
 10 advised the Washington Attorney General's Office as to whether detainees participating in the
 11 NWDC are GEO's employees.

12 **SUPPLEMENTAL RESPONSE:** Admit, ICE has never advised Washington as to whether
 13 detainees participating in the VWP at NWDC are GEO's employees.

14
 15
 16 **REQUEST FOR ADMISSION NO. 33:** Admit that Washington has no documents that show
 17 the amount of time any ICE detainee participated in the VWP at NWDC.

18 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 19 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 20 control. Without waiving these objections, Washington admits and denies this Request.
 21 Washington admits that as of now the Washington Attorney General's Office has no documents
 22 that track the specific amount of time each detainee spent working in the Voluntary Work
 23 Program. Washington denies to the extent that Washington has documents that detail the shifts,
 24 and approximate hours of the shifts for various job duties/assignments which generally show the
 25 daily amount of time – by assignment – detainee workers provide their labor to GEO through
 26 their participation in the VWP.

1 **SUPPLEMENTAL RESPONSE:** Deny, GEO provided documents to Washington that show
 2 aggregate number of hours detainees worked in the VWP at the NWDC.

3
 4
 5 **REQUEST FOR ADMISSION NO. 34:** Admit that Washington has known the VWP rate for
 6 participation at NWDC has been \$1.00 per day since its inception.

7 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 8 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 9 control. Washington further objects to this request, as it is vague as to "its inception," and,
 10 therefore, is unclear what time period the request refers to. Without waiving these objections,
 11 Washington denies that the Washington Attorney General's Office has known the rate GEO pays
 12 for participation in the Voluntary Work Program "since its inception."

13 **SUPPLEMENTAL RESPONSE:** Deny, Washington has not known the rate GEO pays for
 14 participation in the Voluntary Work Program "since its inception."

15
 16
 17 **REQUEST FOR ADMISSION NO. 35:** Admit that Washington's Department of Labor and
 18 Industries has inspected the NWDC, including its policies and procedures specific to the VWP.

19 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 20 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 21 control. Without waiving these objections, Washington is unable to admit or deny this request.
 22 The Washington Attorney General's Office does not operate the Department of Labor and
 23 Industries and is unaware whether that agency has inspected the NWDC or its policies and
 24 procedures specific to the VWP.

25 **SUPPLEMENTAL RESPONSE:** Deny, the Department of Labor and Industries has inspected
 26 some employment practices at the NWDC related to non-detained workers. However, the

1 Department of Labor and Industries has not inspected or ratified GEO's practices, policies or
 2 procedures related to the VWP at NWDC.

3
 4
 5 **REQUEST FOR ADMISSION NO. 36:** Admit that Washington's Department of Labor and
 6 Industries must enforce Washington's Minimum Wage Act.

7 **RESPONSE:** Objection calls for a legal conclusion and therefore is an improper request for a
 8 Request for Admission. Without waiving, Washington admits in part and denies in part.
 9 Washington admits that the Department of Labor and Industries has the authority to enforce
 10 Washington's Minimum Wage Act. *See* Wash. Rev. Code 49.46.040; Wash. Rev. Code §§
 11 49.4649.48.082, 083. Washington admits that L&I must issue an order if L&I conducts a Wage
 12 Payment Act investigation after a worker files a wage complaint alleging a Minimum Wage Act
 13 violation unless it is "otherwise resolved." *See* Wash. Rev. Code § 49.48.082, 083. No wage
 14 complaint has been received by any past or present detainee alleging Minimum Wage violations
 15 arising out of GEO's employment practices at NWDC. The Washington Attorney General's
 16 Office also has the authority to enforce Washington's Minimum Wage Act. *See* Wash. Rev.
 17 Code § 43.10.030; *City of Seattle v. McKenna*, 529 P.3d 1087 (Wash. 2011); *State v. Chinook*
 18 *Hotel, Inc.*, 399 P.2d (Wash. 1965). Washington denies the remainder.

19
 20
 21 **REQUEST FOR ADMISSION NO. 37:** Admit that Washington's Department of Labor and
 22 Industries has never enforced Washington's Minimum Wage Act in the VWP at NWDC.

23 **RESPONSE:** Washington objects to this request as it seeks information from non-parties or
 24 state agencies outside of the Washington Attorney General's Office's possession, custody, or
 25 control. Without waiving these objections, Washington is unable to admit or deny this request.
 26 The Washington Attorney General's Office does not operate the Department of Labor and

1 Industries and cannot confirm whether the Department of Labor and Industries has ever enforced
2 the Minimum Wage Act in the Voluntary Work Program at NWDC.

3 **SUPPLEMENTAL RESPONSE:** Admit, the Department of Labor and Industries has not
4 previously enforced Washington's Minimum Wage Act in the VWP at NWDC.

5
6
7 **REQUEST FOR ADMISSION NO. 38:** Admit that the Attorney General's client is the State
8 of Washington in this lawsuit.

9 **RESPONSE:** Admit, the Washington Attorney General's Office's client in this lawsuit is the
10 State of Washington, and not a specific state agency.

11
12
13 **REQUEST FOR ADMISSION NO. 39:** Admit that the Attorney General Bob Ferguson
14 decided on his own, without direction from the Governor or Legislature, to use his law
15 enforcement authority to bring this lawsuit against GEO.

16 **RESPONSE:** Washington objects to this request as irrelevant and not reasonably calculated to
17 lead to the discovery of admissible evidence. Washington further objects to the extent this calls
18 for attorney-client and work product privileged communications. Without waiving these
19 objections, Washington admits that Attorney General Bob Ferguson exercised his authority, as
20 the head of the Washington Attorney General's Office, to bring this law enforcement action to
21 challenge GEO's longstanding labor practices and ensure compliance with state minimum wage
22 and labor laws.

1 **REQUEST FOR ADMISSION NO. 40:** Admit that Attorney General Bob Ferguson is using
 2 this lawsuit to raise campaign contributions for himself.

3 **RESPONSE:** Washington objects to this request as irrelevant and not reasonably calculated to
 4 lead to the discovery of admissible evidence. Washington objects to this request as it seeks
 5 information from non-parties outside of the Washington Attorney General's Office's possession,
 6 custody, or control. Without waiving these objections, Washington denies Attorney General Bob
 7 Ferguson is using this lawsuit to raise campaign contributions for himself. Washington is using
 8 this lawsuit to enforce its state laws against a private company doing business within the state.

10 **REQUEST FOR ADMISSION NO. 41:** Admit that Attorney General Bob Ferguson expects
 11 to control any monies "disgorged" from GEO in this lawsuit.

12 **RESPONSE:** Washington denies that the Attorney General Bob Ferguson expects to personally
 13 control the monies "disgorged" from GEO in this lawsuit. If Washington prevails, the
 14 Washington Attorney General's Office will ask the Court to allocate the funds for equitable
 15 purposes, including the benefit of individuals who work or have worked in the VWP, and job
 16 seekers in the surrounding community.

19 **REQUEST FOR ADMISSION NO. 42:** Admit that Attorney General Bob Ferguson will
 20 decide how any monies "disgorged" from GEO in this lawsuit will be spent.

21 **RESPONSE:** Washington denies that the Attorney General Bob Ferguson will personally
 22 decide how any "disgorged" monies from GEO will be spent. If Washington prevails, the
 23 Washington Attorney General's Office will ask the Court to allocate the funds equitable
 24 purposes, including the benefit of individuals who work or have worked in the VWP, and job
 25 seekers in the surrounding community. The Washington Attorney General's Office will also ask
 26

1 defendants to pay its reasonable attorneys' fees and costs; these monies, and any others allocated
 2 by the Court, would be reinvested in the ongoing operations of the Attorney General's Office.

3
 4
 5 **REQUEST FOR ADMISSION NO. 43:** Admit that Washington's Minimum Wage Act applies
 6 to employment relationships regardless of the profitability of the employer.

7 **RESPONSE:** Admit, the Minimum Wage Act applies to all employment relationships that are
 8 not covered by a statutory exemption regardless of the profitability of the employer.

9
 10
 11 **REQUEST FOR ADMISSION NO. 44:** Admit that Washington's laws against discrimination
 12 prohibit the State from discriminating against or granting preferential treatment to an individual
 13 or group on the basis of race, ethnicity, or national origin in the operation of public employment
 14 or public contracting.

15 **RESPONSE:** Washington objects to this request as irrelevant and not reasonably calculated to
 16 lead to the discovery of admissible evidence. Without waiving these objections, Washington
 17 admits that the Washington Law Against Discrimination, Wash. Rev. Code § 49.60.400,
 18 prohibits the state from discriminating against or granting preferential treatment to an individual
 19 or group on the bases of race, ethnicity, or national origin in the operation of public employment
 20 or public contracting.

21
 22
 23 **REQUEST FOR ADMISSION NO. 45:** Admit that Washington's enforcement of minimum
 24 wages for non-citizens participating in the VWP at NWDC and not in any other federal, state, or
 25
 26

1 local detention center affords ICE detainees at NWDC preferential rights not available to
 2 Washington citizens in detention or other non-citizens held at Sea Tac.

3 **RESPONSE:** Washington objects to this request as irrelevant and not reasonably calculated to
 4 lead to the discovery of admissible evidence. Without waiving these objections, Washington
 5 denies that the law enforcement action in this case is “for” any individual or class of individuals
 6 or that it affords preferential rights to anyone on the basis of any protected category. Washington
 7 admits that it brings this lawsuit in its parens patriae capacity, on behalf of the State of
 8 Washington to enforce Washington’s minimum wage laws and disgorge the profits resulting
 9 from GEO’s decision to operate the NWDC with detainee workers and pay them only \$1.00 per
 10 day for work performed.

11 DATED: November 6, 2018

12 s/ La Rond Baker

13 LA ROND BAKER, WSBA No. 43610

14 MARSHA CHIEN, WSBA No. 47020

15 ANDREA BRENNEKE, WSBA No. 22027

16 Assistant Attorneys General

17 Office of the Attorney General

18 800 Fifth Avenue, Suite 2000

19 Seattle, WA 98104

20 (206) 464-7744

21 larondb@atg.wa.gov

22 marshac@atg.wa.gov

23 andreab3@atg.wa.gov

CERTIFICATION

The undersigned, counsel for Plaintiff, has read the above responses to GEO's First Set of Requests for Admissions to Plaintiff and believes them to be in compliance with Fed. R. Civ. P. 26(g).

Dated this 6th day of October, 2018.

State of Washington Attorney General's Office
Counsel for Plaintiff

BY: s/ La Rond Baker
LA ROND BAKER, WSBA No. 43610
MARSHA CHIEN, WSBA No. 47020
ANDREA BRENNEKE, WSBA No. 22027

CERTIFICATE OF SERVICE

I, La Rond Baker, certify that on November 6, 2018, I caused to be served a true and correct copy of Plaintiff's Responses to Defendant's First Set of Requests For Admission via electronic mail as follows:

Joan K. Mell
THREE BRANCHES LAW, PLLC
joan@3brancheslaw.com

Andrea L. D'Ambra
NORTON ROSE FULBRIGHT US LLP
andrea.dambra@nortonrosefulbright.com

Charles A. Deacon
NORTON ROSE FULBRIGHT US LLP
charlie.deacon@nortonrosefulbright.com

Mark Emery
NORTON ROSE FULBRIGHT US LLP
mark.emery@nortonrosefulbright.com

Scott Schipma
GREENBERG TRAURIG, LLP
schipma@gtlaw.com

Douglas E. Smith
William J. Kim
LITTLER MENDELSON, P.C.
desmith@littler.com
wkim@littler.com

s/ La Rond Baker
LA ROND BAKER